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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,766	10/16/2000	Shigeki Morikawa	6340-000017	1606

7590 10/04/2004  
Harness, Dickey & Pierce, P.L.C.  
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EXAMINER	
FREJD, RUSSELL WARREN	
ART UNIT	PAPER NUMBER
2128	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/688,766

Applicant(s)

MORIKAWA ET AL.

Examiner

Russell Frejd

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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***Examination of Application #09/688,766***

1. Claims 1-7 of application 09/688,766, filed on 16-October-2000, are presented for examination.

***Claim Rejections under 35 U.S.C. § 112, 2nd Paragraph***

2. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as the phrase *executing the computer* [line 3 of each claim] is vague and indefinite.

***Notice - 35 U.S.C. § 112, Sixth Paragraph***

3. The following is a quotation of the appropriate paragraph of 35 U.S.C. 112 that forms the basis for the notice under this section made in this Office Action:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

- 3.1 The language of claims 1-7 indicates Applicants may desire an interpretation of these claims under 35 U.S.C. § 112, Sixth Paragraph. In order to receive a claim interpretation under 35 U.S.C. § 112, Sixth Paragraph, Applicants must:

1. show why the claim language properly invokes 35 U.S.C. § 112, Sixth Paragraph;
2. identify the function;
3. identify the corresponding structure; and
4. amend the Specification, if necessary, to explicitly state what structure corresponds to the recited function with reference to the claimed terms and

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phrases, provided no new matter is introduced.

See 37 C.F.R. 1.75(d) and MPEP § 2181.

**3.2** For the purpose of further examination, each claim listed above will be interpreted as broadly as reasonably possible without regard to 35 U.S.C. § 112, Sixth Paragraph.

***Claim Rejections under 35 U.S.C. § 102***

**4.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**4.1** Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by the article authored by Certain et al., hereinafter Certain, entitled Automatic Body Measurement for Mass Customization of Garments, IEEE, October 1999.

**4.2** Certain disclosed the invention as claimed [claims 1, 3, and 5-7], including:

a way of extracting body dimensions from a model [Abstract](applicant's extracting an outline of an object);

the model being generated by a scanner simulator which "scans" body models presented in the form of subdivision surfaces and outputs the point and silhouette data [p. 2, col.

1](applicant's CAD data);

a body scanner for collecting raw data on body shape [p. 1, col. 2](applicant's non-contact measuring point data);

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matching, or fitting [p. 5, col. 1], the model data and to the scan data [p. 2, col. 2](applicant's non-contact measuring point data previously aligned with the CAD data);

selecting all the data points in a thin horizontal slice [p. 4, col. 1](applicant's extracting an analytic surface having a predetermined configuration);

generating silhouette information for the slice with the scanner data [p. 4, col.1] (applicant's carrying out the surface generation using the analytic surface and the non-contact measuring point data);

extracting the critical measurements from the model [p. 1, col. 2; p. 2, col. 1; and p. 5, col. 1](applicant's extracting a crossing line of surfaces generated by the surface generating means as the outline); and

[claims 2 and 4] determining whether the grid points of the slice are "inside" or "outside" the region of space, wherein after all of the grid points are classified, a subset of "outside" points that have a neighboring "inside" point is selected, the subset then being used as a sampling of the silhouette information for the slice [p. 4, col. 1] (applicant's extracting non-contact measuring point data within a predetermined distance from the analytic surface, and using the extracted non-contact measuring point data in the surface generating means).

### ***Response Guidelines***

5. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

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**6. Any response to the Examiner in regard to this non-final action should be**

**directed to:** Russell Frejd, telephone number (703) 305-4839, Monday-Friday from 0530 to 1400 ET, **or** the examiner's supervisor, Jean Homere, telephone number (703) 308-6647. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, telephone number (703) 305-3900.

**mailed to:** Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:** (703) 872-9306

*Hand-delivered responses should be brought to 220 South 20<sup>th</sup> Street, Crystal Plaza Two, Lobby, Room 1B03, Arlington, VA., 22202.*

**Date:** 28-September-2004

RUSSELL FREJD

**RUSSELL FREJD  
PRIMARY EXAMINER**